

(v) A rate received by an employee of the government of the District of Columbia who was first employed by that government on or after October 1, 1987;

(vi) A rate received solely during a period of interim relief under the interim relief provisions of 5 U.S.C. 7701(b)(2)(A); or

(vii) A special rate established under 5 U.S.C. 5305 and part 530 of this chapter, part 532 of this chapter, or other legal authority (other than section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509, 104 Stat. 1465), unless, in a reassignment to another position in the same agency—

(A) The special rate of pay is the employee's current rate of basic pay; and

(B) An agency official specifically designated to make such determinations finds that the need for the services of the employee, and his or her contribution to the program of the agency, will be greater in the position to which he or she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate.

(3) In the case of an employee who has received or is receiving a special rate established under 5 U.S.C. 5305 and part 530 of this chapter, part 532 of this chapter, or other legal authority (other than section 403 of FEPCA); who is placed in a position in which a special rate does not apply; and for whom the special rate is *not* used as the highest previous rate under paragraph (d)(2)(vii) of this section; the highest previous rate may be based on the rate of basic pay for the step (or relative position) in the regular rate range that corresponds to the employee's existing step (or relative position) in the special rate range for the employee's current grade or pay level.

(e) *Agency classification action.* When an agency regrades a position to a grade higher than the one to which the position had been classified by Office action, and when subsequent to the regrading, the Office again classifies the position to the grade which it had originally assigned the position, the rate attained by the employee in the

higher grade may not be used as his or her highest previous rate.

(f) *Simultaneous actions.* (1) General pay adjustments must be processed before any individual pay action that takes effect at the same time. General pay adjustments include annual adjustments under 5 U.S.C. 5303, adjustments in locality rates of pay under subpart F of this part, adjustments in special law enforcement adjusted rates of pay under subpart C of this part, adjustments in special salary rates under 5 U.S.C. 5305 or similar provision of law (including section 403 of FEPCA), increases in retained rates under part 536 of this chapter, and increases in continued rates under subparts C and G of this part.

(2) Pay adjustments (other than general pay adjustments) that take effect at the same time must be processed in the order that gives the employee the maximum benefit. When a position or appointment change and entitlement to a higher rate of pay occur at the same time, the higher rate of pay is deemed to be the employee's existing rate of basic pay.

(g) *Status as a GM employee.* (1) An employee retains status as a GM employee (as defined in § 531.202) when detailed to any position or when reassigned to another General Schedule position in which the employee continues to be a supervisor or management official (as defined in paragraphs (10) and (11) of section 7103(a) of title 5, United States Code).

(2) An employee permanently loses status as a GM employee if the employee is promoted (including a temporary or term promotion), transferred, reduced in grade, reassigned to a position in which the employee will no longer be a supervisor or management official, or has a break in service of more than 3 calendar days.

[45 FR 65498, Oct. 3, 1980, as amended at 46 FR 43823, Sept. 1, 1981; 50 FR 11794, Mar. 25, 1985; 50 FR 35495, 35499, Aug. 30, 1985; 53 FR 34274, Sept. 6, 1988; 55 FR 14829, Apr. 19, 1990; 56 FR 54530, Oct. 22, 1991; 57 FR 3712, Jan. 31, 1992; 58 FR 65535, Dec. 15, 1993; 59 FR 40793, Aug. 10, 1994; 64 FR 69173, Dec. 10, 1999]

§ 531.204 Special provisions.

(a) *Promotions and transfers.* (1) The requirements of section 5334(b) of title

5, United States Code, apply only to an employee who is promoted or transferred from a position in one grade of the General Schedule to a position in a higher grade of the General Schedule.

(2) For the purpose of section 5334(b) of title 5, United States Code, an employee's "existing rate of basic pay" includes any applicable special rate established under section 5305 of title 5, United States Code, or law enforcement special rate established under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101-509, 104 Stat. 1465).

(3) When an employee at grade GS-1 or grade GS-2 is promoted or transferred to a higher grade, the amount of a step increase above step 10 of the employee's grade equals the amount of the increment between step 9 and step 10 of the grade from which promoted.

(b) *Classification decisions.* When a classification decision is made effective retroactively under part 511 of this chapter, the agency shall treat the corrective personnel action affecting the employee concerned as a cancellation or correction, as the case may be, of the original action of demotion, and the employee is entitled to retroactive pay in accordance with the terms of the corrective action.

(c) *Expiration or termination of temporary promotions.* (1) On expiration or termination of a temporary promotion when an employee is returned to the lower grade, an agency must recompute the employee's rate of basic pay for the lower grade as if the employee had not been temporarily promoted unless the agency sets pay at a higher rate under § 531.203(d).

(2) In the case of an employee whose rate of basic pay would otherwise fall between two steps of General Schedule grade or applicable special rate range, the rate of basic pay of the employee must be increased to the rate for the next higher step of the grade or special rate range.

(d) *Rate of basic pay on acquiring status as a GM employee.* On acquiring status as a GM employee (as defined in § 531.202) on November 1, 1993, an employee shall continue to receive the rate of basic pay that was payable on October 31, 1993.

(e) *Rate of basic pay on loss of status as a GM employee.* On loss of status as a GM employee (as defined in § 531.202) under § 531.203(g)(2), an employee shall receive (except as provided in paragraph (f) of this section) his or her existing rate of basic pay, plus any of the following adjustments that may be applicable, in the order specified:

(1) The amount of any annual adjustment under section 5303 of title 5, United States Code, to which the employee would otherwise be entitled on that date or, for an employee subject to special pay rates, the amount of any pay adjustment made on that date under section 5305 of title 5, United States Code, and part 530 of this chapter;

(2) The amount of any step increase under section 5335 of title 5, United States Code, and § 531.404 to which the employee otherwise would be entitled on that date;

(3) The amount resulting from a promotion effective on that date;

(4) In the case of an employee whose resulting rate of basic pay falls between two steps of a General Schedule grade (or, in the case of an employee whose position is subject to special pay rates, between the two steps of the applicable special rate range), the amount of any increase that may be necessary to pay the employee the rate for the next higher step of that grade (or special rate range); and

(5) In the case of an employee whose resulting rate of basic pay falls below the minimum rate of a General Schedule grade (or, in the case of an employee whose position is subject to special pay rates, below the minimum of the applicable special rate range), the amount of any increase that may be necessary to pay the employee the minimum rate for that grade (or special rate range).

(f) *Special exceptions.* Paragraphs (e) (1) through (4) of this section do not apply to any employee who loses status as a GM employee (as defined in § 531.202) under § 531.203(g)(2) as a result of—

(1) An action taken for disciplinary or performance related reasons;

(2) The expiration or termination of a temporary promotion; or

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(3) A reduction in grade at the employee's request.

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§ 531.205 Pay schedule conversion rules at the time of an annual pay adjustment under 5 U.S.C. 5303.

(a) On the effective date of a pay adjustment under 5 U.S.C. 5303, the rate of basic pay of an employee subject to the General Schedule shall be initially adjusted, except as provided in paragraph (b) of this section, as follows:

(1) If an employee is receiving basic pay immediately before the effective date of his pay adjustment at one of the rates of a grade in the General Schedule, he shall receive the rate of basic pay for the corresponding numerical rate of the grade in effect on and after such date.

(2)(i) Except as provided in paragraphs (a)(2)(ii) through (iv) of this section, an agency shall determine the annual pay adjustment under 5 U.S.C. 5303 for a GM employee (as defined in § 531.202) as follows:

(A) Subtract the minimum rate of the range of the employee's position in effect on the day immediately preceding the pay adjustment from the employee's rate of basic pay on the day immediately preceding the pay adjustment;

(B) Subtract the minimum rate of the range in effect immediately preceding the pay adjustment from the maximum of that rate range;

(C) Divide the result of paragraph (a)(2)(i)(A) of this section by the result of paragraph (a)(2)(i)(B) of this section, carry the result to the seventh decimal place, and truncate, rather than round, the result;

(D) Subtract the minimum rate of the new rate range for the grade from the maximum rate of that range;

(E) Multiply the result of paragraph (a)(2)(i)(C) of this section by the result of paragraph (a)(2)(i)(D) of this section; and

(F) Add the result of paragraph (a)(2)(i)(E) of this section to the minimum of the new rate range and round

to the next higher whole dollar amount.

(ii) The rate of basic pay of an employee which is at the minimum or maximum of the rate range in effect on the day preceding the pay adjustment shall be adjusted to the minimum or maximum of the new rate range, respectively.

(iii) The rate of basic pay of an employee which is less than the minimum rate of the rate range of the employee's position shall be increased by the full amount of the annual pay adjustment under 5 U.S.C. 5303 applicable to the rate range of the grade of the employee's position.

(iv) An employee who is receiving retained pay shall receive one-half of the annual pay adjustment under 5 U.S.C. 5303, as required by 5 U.S.C. 5363(a).

(3) Except as provided in 5 U.S.C. 5363 and part 536 of this chapter, if an employee is receiving basic pay immediately before the effective date of his or her pay adjustment at a rate in excess of the maximum rate of his or her grade, the employee shall receive his or her existing rate of basic pay increased by the amount of increase made by the pay adjustment under 5 U.S.C. 5303 in the maximum rate for the employee's grade.

(4) If an employee, immediately before the effective date of his pay adjustment, is receiving, pursuant to section 2(b)(4) of the Federal Employees Salary Increase Act of 1955, an existing aggregate rate of pay determined under section 208(b) of the Act of September 1, 1954 (68 Stat. 1111), plus subsequent increases authorized by law, he shall receive an aggregate rate of pay equal to the sum of his existing aggregate rate of pay on the day preceding the effective date of his adjustment, plus the amount of increase made by the pay adjustment under 5 U.S.C. 5303 in the maximum rate of his grade, until (i) he leaves his position, or (ii) he is entitled to receive aggregate pay at a higher rate by reason of the operation of any provision of law; but, when this position becomes vacant, the aggregate rate of pay of any subsequent appointee thereto shall be fixed in accordance with applicable provisions of law. Subject to paragraph (a)(4) (i) and (ii) of this section, the amount of the